

Exhibit I

Video Deposition of James Kittrell - January 11, 2012

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF WISCONSIN
3 GREEN BAY DIVISION

4 -----
5 APPLETON PAPERS INC. and
6 NCR CORPORATION,

7 Plaintiffs,

8 vs.

Case No. 08-CV-16-WCG

9 GEORGE A. WHITING PAPER COMPANY, et al.,

10 Defendants.

11 -----
12 NCR CORPORATION,

13 Plaintiff,

14 vs.

Case No. 08-CV-0895-WCG

15 KIMBERLY-CLARK CORPORATION, et al.,

16 Defendants.

17 -----
18 Video Deposition of JAMES KITTRELL

19 January 11, 2012

20 9:14 a.m.

21 at

22 LATHAM & WATKINS, LLP
23 200 Clarendon Street
24 Boston, Massachusetts

25 Reported by James A. Scally

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10:25:17 1 MR. LYTZ: May I suggest we take a
10:25:19 2 break?

10:25:19 3 MR. NASAB: Sure.

10:25:19 4 MR. LYTZ: We've been at it over an
10:25:21 5 hour.

10:25:21 6 MR. NASAB: Absolutely.

10:25:22 7 MR. LYTZ: Sounds like you're
10:25:24 8 switching gears a little bit to a
10:25:25 9 subject --

10:25:25 10 MR. NASAB: Absolutely. Any time.
10:25:25 11 Any time you want to take a break.

10:25:27 12 MR. LYTZ: Great.

10:25:27 13 THE VIDEOGRAPHER: We're now going
10:25:28 14 off the record at approximately 10:25 a.m.

10:25:30 15 (Recess.)

10:35:46 16 THE VIDEOGRAPHER: And we're now back
10:35:54 17 on the record with the beginning of the
10:35:56 18 second DVD at approximately 10:35 a.m.

10:36:00 19 BY MR. NASAB:

10:36:09 20 Q. Doctor, I'd just like to circle back to one thing
10:36:11 21 you said earlier.

10:36:12 22 A. Before we proceed, I'd like to make a semantic
10:36:15 23 clarification --

10:36:15 24 Q. Okay.

10:36:16 25 A. -- of my most recent testimony. You've asked me a

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10:36:20 1 series of questions about work that I have done in -- in --
10:36:24 2 in the past as regards largely various categories of paper
10:36:29 3 making or paper recycling. That series of questions I
10:36:34 4 interpreted based on your earlier description of that at
10:36:37 5 the outset of fairly narrowly as having to do with cases,
10:36:42 6 for example, in which the -- the -- the -- the application
10:36:48 7 was specifically in those paper making plants or paper
10:36:53 8 recycling plans. And those I've described my -- I've
10:36:56 9 responded to.

10:36:57 10 I would also like to emphasize, as I have in the
10:36:59 11 report, that over that entire series of questions, I am an
10:37:03 12 expert in chemistry. I am an expert -- an expert in terms
10:37:09 13 of the application of chemistry to a variety of processes,
10:37:12 14 and that includes the chemistry associated with paper
10:37:16 15 making and paper recycling that I -- and coating that I
10:37:22 16 have described already in my report. Those applications of
10:37:25 17 chemistry I have been working on as a -- from all the time
10:37:31 18 I was in Wisconsin in the early years as a Ph.D. student,
10:37:35 19 and it's continued with coating applications, with a
10:37:40 20 variety of applications, as -- as to chemistry over the
10:37:44 21 last four decades or so.

10:37:47 22 So although I -- none of the cases in which I've
10:37:51 23 offered testimony have specifically been in these
10:37:54 24 applications, I have not worked in these plants, I am,
10:38:00 25 however, an expert in the chemistry that relates to the

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10:38:04 1 topics that I've addressed in the report.

10:39:43 2 Q. Doctor, I'd like to circle back to something we
10:39:47 3 touched upon earlier. You mentioned that you had taken
10:39:50 4 tours of Fort Howard and U.S. Paper; right?

10:39:53 5 A. A tour of each, yes, sir.

10:39:56 6 Q. A tour of each. You also mentioned that you had a
10:39:59 7 phone conversation --

10:40:00 8 A. Yes.

10:40:00 9 Q. -- from a Mead employee?

10:40:04 10 A. Yes.

10:40:04 11 Q. Who did you converse with?

10:40:05 12 A. Again, I didn't bring that name with me. I spoke
10:40:10 13 with him for about 15 minutes, and I just don't have his
10:40:14 14 name in front of me at the present time.

10:40:16 15 Q. When did you have that conversation, to the best
10:40:18 16 of your recollection?

10:40:18 17 A. My recollection, that would have been in -- again,
10:40:22 18 in October.

10:40:22 19 Q. Where did the Mead employee work?

10:40:25 20 A. He's retired, and I don't think I asked where --
10:40:30 21 where he specifically worked other than -- other than that
10:40:33 22 he worked for Mead.

10:40:34 23 Q. Do you know what state he lived in?

10:40:36 24 A. He -- I believe he lives in -- I believe he lives
10:40:39 25 in either in Illinois or Indiana.

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10:40:44 1 Q. And do you know -- do you know when he worked at
10:40:53 2 Mead?

10:40:55 3 A. I don't know specifically. You know, he's
10:41:00 4 retired. He was there for decades. But I don't recall the
10:41:03 5 specific dates.

10:41:05 6 Q. Do you remember when he started at Mead?

10:41:06 7 A. Don't recall.

10:41:08 8 Q. Did you take notes of that phone conversation?

10:41:09 9 A. No.

10:41:10 10 Q. Why did you have that phone interview with the
10:41:35 11 Mead employee?

10:41:36 12 A. Well, he -- he was in coating at -- in this -- in
10:41:41 13 this area and had experience in coating of the -- of the
10:41:48 14 NCR paper, and I was interested in specifically what
10:41:53 15 coating materials he was using in his -- in his work. And,
10:41:59 16 in particular, what was the coating material that was being
10:42:03 17 used on the receptor paper, and some of the definitions
10:42:09 18 were -- were -- some of the documents I -- I wasn't clear
10:42:11 19 on whether there was inconsistency among the documents that
10:42:14 20 I had received, and I asked him what they used.

10:42:20 21 Q. Did you have any follow-up conversations with him?

10:42:24 22 A. No.

10:42:25 23 Q. Who gave you the contact information for this Mead
10:42:31 24 employee?

10:42:31 25 A. Well, that would have been, again, Doug --

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10:42:42 1 Q. Garrou?

10:42:43 2 A. Garrou, yes.

10:43:06 3 Q. Okay. And what did you talk about with him other
10:43:08 4 than the materials that were used in coating NCR paper?

10:43:13 5 A. I spoke with him generally about -- about what --
10:43:16 6 what his -- what generally he had done for a career in
10:43:24 7 Mead, in -- in his early years, and then went directly into
10:43:30 8 the coating discussions.

10:43:31 9 Q. Okay. Have you relied on your phone interview
10:43:36 10 with this Mead employee for your opinions in this case?

10:43:39 11 A. His -- his -- his response, what he used, is
10:43:44 12 consistent and identical with information I had from
10:43:47 13 sources. So I would -- I -- it confirmed the information
10:43:51 14 that -- that I had been using and did use in the report.

10:43:55 15 Q. So you relied on him to confirm information that
10:44:02 16 you saw in the documents?

10:44:04 17 A. Yes.

10:44:05 18 Q. I'm sorry, you said you did take notes or you did
10:44:14 19 not take notes?

10:44:14 20 A. Did not, no.

10:44:16 21 Q. Did you write down his name or do you have his
10:44:20 22 name? Did someone provide you the name and phone number?

10:44:24 23 A. Yes. I have his -- I did -- I had a -- I think it
10:44:26 24 is a conference call number I called in on. I don't recall
10:44:30 25 specifically. But, yes, I have his name.

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10:44:31 1 Q. And were any attorneys present during the call?

10:44:34 2 A. On the call, yes. Doug was present on the call.

10:44:52 3 Q. Prior -- well, let me ask it this way: Have
10:45:17 4 you -- have you ever observed sort of the effluent stream
10:45:20 5 of a paper recycling mill?

10:45:23 6 A. Not directly. I have -- you know, I've driven
10:45:30 7 through Appleton. I've -- I've looked -- looked at the --
10:45:34 8 at the -- at the mills, you know, from -- you know, from
10:45:38 9 the bridge, from, you know, from the road. I haven't
10:45:41 10 actually seen, that I recall, an effluent stream update.

10:45:56 11 Q. Prior to 1972, did you ever have an occasion to
10:45:59 12 observe the stream of effluent coming out of a paper
10:46:05 13 recycling mill?

10:46:07 14 A. I -- I don't have a specific recollection. I --
10:46:13 15 I've obviously lived in Wisconsin. I've driven to Green
10:46:17 16 Bay before and things like that. But I don't have a
10:46:23 17 specific recollection.

10:46:24 18 Q. Okay. I'm not sure -- I'm not sure what the
10:46:34 19 relevance of having driven to Green Bay --

10:46:34 20 A. Well --

10:46:36 21 Q. -- before would --

10:46:37 22 A. I don't -- I've been in -- I've been near paper
10:46:41 23 mills. I don't have a recollection of seeing an effluent.
10:46:43 24 I don't know that I have, but I have no recollection of it.

10:46:46 25 Q. Did you ever -- okay. But you had not visited any

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10:46:56 1 paper mills before this case; right?

10:46:58 2 A. That's correct.

10:46:59 3 Q. And you don't have any recollection of having
10:47:06 4 observed the effluent stream from a paper recycling mill;
10:47:11 5 correct?

10:47:11 6 A. That is correct.

10:47:12 7 Q. Okay. Have you ever worked as part of a
10:47:21 8 wastewater treatment crew?

10:47:25 9 A. Of wastewater treatment on any process? I
10:47:31 10 don't -- I don't know what you mean.

10:47:32 11 Q. How about wastewater treatment in the paper
10:47:34 12 industry.

10:47:35 13 A. No.

10:47:39 14 Q. Have you ever helped operate or supervise any
10:47:45 15 wastewater treatment machinery at a paper recycling mill?

10:47:49 16 A. Not in a paper recycling mill, but I have operated
10:47:53 17 wastewater treatment machinery previously.

10:47:55 18 Q. Okay. Where have you -- well, let me ask you just
10:47:58 19 this question and we'll -- and we'll talk about this: Have
10:48:00 20 you ever helped operate any wastewater treatment machinery
10:48:02 21 at a paper recycling mill?

10:48:04 22 A. I have not.

10:48:04 23 Q. Okay. And you said that you have operated
10:48:07 24 wastewater treatment machinery in other contexts?

10:48:12 25 A. In other -- other industries.

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10:48:14 1 Q. Okay. Can you tell me the industries that you --

10:48:17 2 A. In -- in the petroleum industry.

10:48:18 3 Q. Okay.

10:48:20 4 A. Probably also in the chemical, although I don't
10:48:23 5 really recall that specifically. But definitely in the
10:48:25 6 petroleum industry I recall operating it.

10:48:29 7 Q. Okay. Well, tell me about that.

10:48:32 8 A. I worked at a refinery, and one of the tasks that
10:48:35 9 I had was -- was -- was controlling wastewater -- what
10:48:39 10 would be wastewater contaminants in -- in one of the
10:48:44 11 refinery units.

10:48:49 12 Q. Okay. And when -- when did you hold that
10:48:52 13 position?

10:48:52 14 A. In '60s -- late '60s, early -- late '60s.

10:48:58 15 Q. What was the name of the refinery?

10:49:00 16 A. Chevron.

10:49:09 17 Q. So can you tell me just more about what -- what
10:50:09 18 you would do at Chevron?

10:50:10 19 A. Well, at -- Chevron in the CV is listed as
10:50:15 20 Standard Oil California, by the way. That's predecessor
10:50:21 21 name to Chevron. At Chevron, I had several job functions
10:50:26 22 over the years. My early assignments were in research and
10:50:29 23 development, catalyst development, catalyst coating, that
10:50:33 24 types of -- that type of -- of area, being applied to
10:50:38 25 various petroleum streams.